Supreme Court, U.S.
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No. _____

In The

Supreme Court of the United States

MAREK A. KWASNIK,

Petitioner,

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES OF STATE OF MAINE *et al.*

Respondents.

On Petition For A Writ Of Certiorari
To The Supreme Judicial Court of Maine

PETITION FOR WRIT OF CERTIORARI

Marek A. Kwasnik
PO Box 2065
Windham, ME 04062
207-650-4119

QUESTIONS PRESENTED

1. Whether non-final in federal claims judgment of forum state is, or is not entitled to full faith and credit in petitioner's residence - sister state, when such enforcement of the judgment when originally issued without requisite(s) of due process: will or would deprive petitioner of motor vehicle legal driving privileges contrary to raised federal rights to due process and equal treatment in possessing state driving privileges, as gender neutral, and will or would by the same deprive of due process rights, the Fourteenth Amendment guaranteed right to be free from improper depravation of liberty and the Fourth Amendment right to be free from unreasonable arrest and/or subsequent conviction.

2. Whether Title 28 U.S.C. §2254 is an exception to providing full faith and credit by sister state to forum state judgment, per Title 28 U.S.C. §1738 and Article IV, §1, Full Faith and Credit Clause.

3. Whether State of Maine law, Title 19-A of M.R.S.A. §2202, which provides for driver's license revocation for non-payment of child support by unreasonable and as improperly issued with violation of due process right judgment of forum state is violative of Petitioner's Maine Constitution Article I Section 6-A right to due process as state rights in sister state, and the Fourteenth Amendment to Federal Constitution Section 1, Equal Protection, Privileges, and Due Process Clause substantive rights.

4. Whether Maine courts have committed errors in federal law and so denied Petitioner's Maine and federal due process and equal protection the Fourteenth Amendment rights by not allowing action to be pursued in Maine courts against Maine DHHS Commissioner either in individual or official or in both capacities, as action as in addition to review of DHHS final decision against enforcement of allegedly unconstitutional Maine statute.

LIST OF ALL PARTIES TO THE PROCEEDINGS

IN MAINE SUPREME JUDICIAL COURT

1. Department of Health and Human Services of State of Maine.

2. Brenda Harvey*, individually and as Commissioner of Department of Health and Human Services of State of Maine.

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* Brenda Harvey, as present Commissioner of Maine Department of Health and Human Services has been substituted for John R. Nicholas - former Maine DHHS Commissioner, and he had been substituted before during Maine courts' action for Peter E. Walsh - Acting DHS Commissioner at the time of filing of initial petition to review final agency action back in September 2003.

During Maine Cumberland County proceedings DHS/DHHS Commissioner has been dismissed and an action continued as against DHHS only.

On appeal Maine Supreme Judicial Court has caused further changes, and indirectly disallowed caption of the case from containing reference to Maine DHHS Commissioner.

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Supreme Judicial Court of State of Maine entered final judgment on 03/29/2006, as *Kwasnik v. Department of Health and Human Services et al.*, 2006 ME 27, Appendix at 01-02, in appeal to it affirming Superior Court, Cumberland County 08/26/2005 order, Appendix at 03, as an order affirming decision of Department of Health and Human Services upholding the Petitioner's driver's license revocation in action related to enforcement of New Jersey 04/10/2002 order of divorce, custody, and child support, Appendix at 08-10.

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JURISDICTION

The Supreme Judicial Court of Maine issued on March 29, 2006 an order affirming Cumberland County Superior Court of Maine final order. This Court has jurisdiction under 28 U.S.C. §1257(a) to review the state court final decision on writ of certiorari.

Federal questions have been raised during Maine Superior Court and Maine Supreme Judicial Court proceedings, as to whether New Jersey order is or would not be deserving full faith and credit in Maine, and unconstitutionality of Maine statute.

Federal questions and federal rights had been raised during Middlesex County New Jersey Superior Court (NJ trial court trial) proceedings, and during appeal to New Jersey Appellate Division of Superior Court (NJ appellate court) in brief and motions.

After NJ appellate court denied to rule on, and prior to filing of New Jersey Supreme Court for petition for

discretionary review of the NJ appellate court ruling – have been filed federal claims with Federal questions in the United States District Court for the District of New Jersey on August 15, 2003.

Pending Federal question in the U.S. District Court as question of unconstitutionality of New Jersey statute had been indicated to NJ Supreme Court in the petition for certification of an entire appeal, as petition for only New Jersey law matters.

There is currently pending on appeal to the U.S. Third Circuit Court of Appeals request with that Circuit court for certified question of state law pursuant to Local Appellate Rule 110.1, and NJ Rules of Court R.2:12A, as filed for in August 15, 2003 at the outset of the Federal case.

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STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

The Fourth Amendment to Federal Constitution, Searches and Seizures Close;

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrant shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

The Fourteenth Amendment to Federal Constitution, Section 1, Privileges and Immunities Clause; Section 1, Equal Protection, Due Process Clauses;

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the priviledges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

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STATEMENT OF FACTS

The Petitioner, Marek A. Kwasnik, appealed to State of Maine courts of administrative decision of Maine Department of Health and Human Services (DHHS)[1] its

[1] Department of Health and Human Services of State of Maine has changed its name in July 2004 from Department of Human Services, (DHS).

intent to revoke Petitioner's driver's license in regard to enforcement of improperly issued product of interstate divorce and custody proceedings, procured orders by the same of also grossly overstated child support payments, as enforcement contrary to Petitioner's due process and equal treatment gender neutral the Fourteenth Amendment rights.

DHHS served upon the Petitioner the notice of its intent to revoke the Petitioner's driver's license. Appendix at 04-07. DHHS as agency responsible for enforcement in Maine of child support payments following assignment to Petitioner's ex-wife by New Jersey courts of custody of minor child son Robert when she was at that time, and also at present is a resident of New Jersey. Following product of interstate custody dispute proceedings which took place in Middlesex County trial court, New Brunswick, New Jersey, as an order, Appendix at 08-10. She obtained all and I have "obtained" orders of barring my parental rights and only forcing me to pay her bills and pay to her an overstated child support.

After hearing at Portland, Maine DHHS issued order, for itself, that DHHS may pursue revocation of [illegible] Petitioner's – Maine issued my driver license.

The Petitioner filed action in Maine Cumberland County Superior Court to review final agency decision. Maine Superior Court issued an order affirming without an opinion of DHHS intent to revoke the license. Appendix at 03. The Petitioner appealed to Maine Supreme Judicial Court, which issued its order affirming DHHS decision for the revocation. Appendix at 01-02.

The Petitioner would sketchily now describe matters related to proceedings New Jersey which have generated in turn Maine proceeding, since the ones are materially related to Maine proceedings as its origin and as part of whole controversy of this petition.

The Petitioner or my ex-wife Ewa Skwarczynska, has obtained a permanent resident status of the United States through my immigration petition for her at the time of obtaining by me of status of the U.S. legal permanent resident through Electrical Engineering work in the U.S. Road preceding filing for a green card has been long for me, the Petitioner, 9 ½ years, and it's been as a very involving one. Although once started, it had been completed successfully in rather short time.

Ewa Skwarczynska benefited from my obtaining resident status by becoming one as well. She eventually became admitted to the U.S. through issuance of immigration visas, with Robert our son born in interim in Canada – as relocating from her residence - to live for second time in the United States.

Following their arrival in 1997 and settling all three of us in Pennsylvania, right across the river from New Jersey, due to major disagreement about matters related to Robert, eventually we have separated in 1998 with myself – as now Petitioner – moved to Maine, and her with Robert relocated again to New Jersey.

When acting as pro se litigant, filed complaint for divorce and custody of our son, filed by myself in 2000 shortly after my naturalization as the U.S. citizen.

Proceedings in New Jersey started with trial court in Middlesex Court, New Brunswick, New Jersey, on April 3, 2001 assigning her residential custody of Robert and shared with me the legal one and my visitations as we may agree on. Custody arrangement was changed on July 30, 2001 to her sole and exclusive both residential and legal. Her sole custody interlocutory order was later made permanent by trial court final order from April 10, 2002. Appendix at 08-10. My appeal to NJ appellate court followed, which affirmed all NJ trial court orders on 2nd anniversary date of filing of my complaint for divorce and custody, including overstated child support. My petition for discretionary review in only New Jersey law

claims by NJ Supreme Court was denied on 02/27/03.

Throughout all New Jersey proceedings, Maine courts proceedings, and Maine and New Jersey Federal Courts the Petitioner – I have been acting without assistance of an attorney, as pro se litigant.

New Jersey trial court and much of the appellate court proceedings have been their show and circus about upfront fixed result of her custody, and attempt to make to accept it, with forcing upon me orders of overstated financial obligations, and with option of visitations if I would want to accept visitations or not.

Under implied excuse of procuring gender favoritism, there had been only acting for local interest at immense cost to myself and to Robert.

That had been a circus purporting that the matters has been about law, when in fact these have been about how to make me accepts her custody, and make me to cover her costs as all her legal bills, not considering at all mine extensive expenses and impact on my employment of running and attending New Jersey "proceedings."

Order from 04/10/2002, Appendix at 08-10, is demonstrating that with clarity, although that is only a small picture documenting a portion of what that all was about.

New Jersey had been a very successful for themselves in perverted "all New Jersey judicial proceedings" and orders which at present are being enforced against me in Maine by another one of the United States of America – the State. In addition to loss of any custody rights to my son there has been only slapping me with grossly overstated child support obligation, $228[2] per week, and with all her petition

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[2] Number $228.00 per week as amount of child support obligation has happened not coincidently to be the same as federal statute 18 U.S.C. §228, known as Child Support

attorney fees, and order that if I wanted to see my son on supervised visitation, I was required first to make an application to lord of impunity baron of purporting as NJ trial court judge Vincent Leblon himself. Appendix at 08-10.

The fact of using my in interim weekly child support obligation when child custody assignment is being indirectly challenged by challenging validity of NJ law, NJS 9:2-4(c), as improperly imputed amount of $228, is demonstrating impunity of lord of life and death of NJ ruler, baron of purporting. The ruler who at the time when he ripped me off of time and enjoyment of raising the son, for such impunity has been compensated well, per NJS 2B:2-4 about $150k.

Possessing absolute immunity from damages claims against him, even in the event of his intentional harm as he did it through related orders and subsequent to his orders, with premium portfolio of full benefits for himself

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Recovery Act of 1992.

That is not innocent or just pure coincidence. When utilized properly available for NJ trial court financial record at the time of establishing of that weekly payment, it was to turn out substantially different amount from $228/week.

18 U.S.C. §228 is imposing on Federal government charging me with willful non-payment, imposing upon me conviction for up to 2 years with status of a convicted felon after all. *U.S. v. Venturella*, 391 F.3d 120 (2nd Cir. 2004).

New Jersey not only ripped me off and Robert to have time with me, when after not only irreversibly depriving me of the time with my son for already over five years, but also threatening me with further imprisonment for not acceptance of that depravation, and in the future it will eventually involve damaging my clean or non-existing criminal history record because of inability to pay overstated by them of child support due to working full time - continuously on my legal matters for reversal of the NJ orders and damages for immense damage. "Liberty and justice for all", under the state of the State, separate but equal.

and his family provided to him by the State, he can roam freely with no much regard for out-of-state litigant right to be free from improperly procured his order of litigant's incarceration, or impact of the orders on litigant's health, or employment.

At that time of his ruling for incarcerating me for imputed non-payment of child support, at the same time they garnished involuntarily from me $250.00 as overstated amount. He did not mind to impute me non-payment of child support, as per his 11/15/2001 incarceration order with actual incarceration of myself in Middlesex County Adult Correction Center. It all had been a played out as a setup for the extortion and coercion to make me to accept their created rip-offs.

Not enough of that that the audio record has been doctored by Middlesex County trial court, the same court from well known case about disciplining history of an unhappy attorney. *Middlesex Ethics Committee v. Garden State Bar Association*, 457 U.S. 423 (1982).

Following trial court trial and second series of attempts to extort from me overstated weekly payments under threat of another incarceration through bench arrest warrant, and denial by appellate court where the appeal was pending - denial of review of constitutionality of custody award statute NJS 9:2-4(c) and other NJ Court Rules pertaining to full payment of attorney fees, there has been filed complaint on August 15, 2003, in Federal U.S. District Court in New Jersey against NJ lord of impunity and master of purporting Vincent Leblon, and other New Jersey officers seeking review of NJ statute, and damages for several not authorized or contrary to law so illegal, malicious their trial court record manipulations. Complaint has been docketed as 03-cv-3881-SRC.

During first hearing, interlocutory, on April 3, 2001, in trial court Vincent Leblon has attempted to cause me to speak through an interpreter specifically arranged for that sole purpose. After being at that time for already

years in the United States, attending in my first years in the U.S. various English courses, passing with good grades Test of English as a Foreign Language, (TOEFL), Test of Spoken English, (TSE), conducting all my without assistance of an immigration lawyer or any interpreter - through conclusion of my status adjustment to permanent resident through employment – US employer sponsoring, then preparing myself and passing answering all the questions correctly in my citizenship interview with INS at that time, Vincent Leblon arranged for and attempted to press upon me to speak through an interpreter specially arranged for that occasion. Leblon became quite dissatisfied when I eventually refused, but when conversed fluently in the English all the time politely with him during that incident.

Following that hearing, when reviewed tape recording have concluded that the recording of the hearing from 04/03/2001 have been reworked – have been manipulated with by someone at Middlesex County trial court. Later it turned out, that that audio records doctoring could have been performed either by Vincent Leblon himself or under his direct overseeing it and specific instruction what to modify.

Due to doctoring of the audio record, filed complaint with NJ Supreme Court Advisory Committee On Judicial Conduct, but they have denied review of Vincent Leblon's acting.

The complaint supposedly was to be confidential, but Leblon has learned about it, and "Middlesex County trial court" – lord of impunity Vincent Leblon subsequently imputed me nonpayment of child support and incarcerated me.

That had been prearranged by sending to me misleading official notice about trial being scheduled for 11/15/2001, and only myself appearance on that day, he ordered my incarceration as planned by them ahead, and they incarcerated me in Middlesex County Adult Correction Center on that day.

During 11/15/2001 prearranged hearing with other party attorney, when in fact overstated child support has been involuntarily garnished from my weekly paycheck at that time, and that was communicated to him, Vincent Leblon did not consider that evidence at all.

Following my release when my mother without first speaking with me for my acceptance of her arrangement, posted $8500.00 bond, they released me several days later.

Following my release filed another complaint with NJ Advisory Committee On Judicial Conduct regarding that incident, but the Committee have not issued any decision indicating what their decision or acting duly had been or would have been in that regard.

Following trial heard on March 18 through 20, 2002, trial court "granted" Ewa Skwarczynska sole custody, and "assigned" me overstated child support payments, her full attorney fees from Maine and from New Jersey "proceedings".

During March 2002 trial Vincent Leblon made several statements which not only some directly contradicted his judicial oath taken prior to his judgeship, per NJS 41:2A-6, but the fact and the meaning of it has been a disgrace to a judgeship.

Vincent Leblon prior to his judgeship has been administered a judicial oath per NJS 41:2A-6:

> I, [Vincent Leblon], do solemnly swear that I will support the Constitution of this State and the Constitution of the United States, and will perform the duties of my office, faithfully, impartially and justly, to the best of my ability. So help me God.

The wording, if the oath is implying all future acting according to the statute, that Vincent Leblon's was administered one not solely for a ceremonial purposes.

During March 18-20, 2002 trial, Vincent Leblon made several statements which have not appeared on final recorded audio record, copy of which became available to me.

These statements have been:

"The Constitution does not really apply";
"He is misusing our courts",
"The law has been applied to both parents equally",
"He [the Petitioner] can be a fit parent!"

He also added one more statement to the record which he did not make during the trial, but that is not relevant much to the present matter.

From what I have experienced with the courts so far, and with lapse of time, Vincent Leblon's statement that "the Constitution does not really apply" has made me surely believe and as conclusion that what he said that the Constitution may not matter: may likely to be the REAL STATUS of matters, more often from when it does.

What is significant, Vincent Leblon has made these statements from the bench when being in judicial robes.

Leblon's order from 04/10/2002 is reflecting his attitude towards me. Appendix at 08-10.

It is obvious that as a judge of Middlesex County trial court he not only disregarded his oath of judgeship and his solemn duty to uphold the U.S. Constitution, and duty to faithfully and discharge impartially of his solemn judicial duties.

The statements he made and his approach are reflecting not only bias, but primarily his shallow thinking, his shallow views and treatment of the people he dealt with, he deals with.

After discovering the record modifications, have made an application to the trial court to settle the record,

but that was denied, and NJ appellate court denied review of trial court order of the denial as well.

In his verbal opinion at the conclusion of the trial he made single reference throughout all trial court proceedings to NJS 9:2-4(c) as grounds for Robert's custody assignment to Ewa Skwarczynska, my ex-wife. That statute's constitutionality has later been attempted to be challenged through motion in appellate court, but that was denied.

Following that denial of review of the statute, there has been filing of the complaint in the United States District Court in New Jersey. Preparation of trial transcripts was an issue by itself.

After multiple or several dozens of inquiries and making copies of for filing, sending, resending over period of 5 months by myself, trial transcripts have been "corrected" as final correction by Deputy Clerk of NJ appellate court. The Deputy Clerk had made only several corrections. In final revision he has refused to make further several obvious ones as indicated to him other discrepancies, and what is also very relevant – he generated "mistakes" in undisputed and correct parts of the record what he of course refused to correct. His generated mistakes in undisputed portions of the transcripts centered about financial
matters and related to them rulings.

NJ appellate court in their honed opinion of bumpy history of the case, as highly polished opinion omitted essential facts, misstated some relevant, and in generally made it appear as all scheme of rip-off by trial court was as naturally and rightfully procured.

For example, they omitted that Ewa Skwarczynska's educational level completed in Poland was only high school. Her English level was only very basic. And she has not pursued despite of my extensive help and encouragement for, has not completed even Graduation Equivalency Diploma (GED) of high school in the U.S.

They omitted also mentioning that she became U.S. permanent resident because of my petition for her.

NJ appellate court did not mention that they denied review of denial by the trial court request to settle or for correction of the record, when there had been raised claims, that recorded record has been doctored by Vincent Leblon, trial court judge.

Neither NJ appellate court also did mention that they denied review of corrections to the trial transcript including intentional mis-representing in final revision by their deputy clerk.

They have omitted mentioning that I have been refused at the time of NJ trial court "proceedings" to allow finalizing for Robert his citizenship based on my naturalization per Child Citizenship Act of 2000, PL 106-395, since according to terms of that act Robert became a citizen.

And most important, they have refused to rule on validity of NJ statute NJS 9:2-4(c) which specifies criteria for custody of minor child assignment and denied to amend my brief with the claim for.

They did not mention that despite when the respondent has not filed brief for almost a year after it became due, they refused in interim to allow my amending of brief following filing of my motion with claim of unconstitutionality of NJS 9:2-4(c).

NJ appellate court when "explaining" of my incarceration by trial court, did not say that all that was prearranged because I was the only participant of the hearing the other side has not showed up knowing what was coming, and that they involuntarily garnished $250/week from my paycheck, and that they only imputed me non-payment of child support, trying also to extort from me through incarceration all her full attorney fees and make me to give up custody.

NJ appellate court then in their opinion has utilized their regular expression: "the findings of the judge are supported by substantial credible evidence contained in the record", or "vesting sole custody of the child with defendant". In addition, the record in fact has turned out in the end as distorted.

Additionally, they refused to perform correction of obvious mis-transcriptions, refused correction of introducing of some additional ones as tweaked by their appellate court Deputy Clerk, in other words all has had to remain distorted - purported to appear as a genuine one.

When attempted to submit with petition for discretionary review certification of facts to NJ Supreme Court, certification related to all discrepancies in the record and history of attempts to correct the ones, despite that Ewa Skwarczynska through her attorney filed waiver of her right for any further pursuance of the discretionary appeal matters, NJ Supreme Court denied my petition for certification of entire appeal from NJ appellate court, denied motion to expand the record, and dismissed as moot motion for stay of its lower court orders.

I would indicate an essential matter, that the complaint in the USDC court, in New Jersey, is about federal claims and rights which has been raised in NJ proceedings but denied to be pursued for their resolution of by New Jersey courts, trial and appellate ones.

New Jersey Supreme Court petition from December 2003 for discretionary review by the state court of last resort has had raised only state law claims with appropriate and explicit in-petition indicating to the NJ court, that federal claims had been pending in the Federal Courts of the Third Circuit.

Presently there is an appeal pending from dismissal of the complaint, appeal in the U.S. Court of Appeals for the Third Circuit, appeal no.: 05-5210.

The dismissal has been claimed as improperly based on pre-*Exxon Mobil* understanding of *Rooker-Feldman* doctrine, its related judicial term: "being inextricably intertwined with state court order". *Exxon Mobil Corp. v. Saudi Basic Industries Corp.* 544 U.S. __ (2005).
From recent developments, in that appeal the time for filing of the State New Jersey Appellees-Defendants brief in the Third Circuit Court of Appeals appeal 05-5210 has elapsed in March 2006, but they have not filed so far anything except for their counsel appearance.
On 06/10/2006, per §2202, DHHS served upon me "Certification To Revoke License(s). Appendix at 11-12.

REASONS FOR GRANTING THE PETITION

I. THIS COURT AS A NEUTRAL ARBITER SHOULD RESOLVE THE ISSUE OF PROPRIETY OF ENFORCEMENT OF NEW JERSEY ORDERS WHEN IT IS BEING CLAIMED SERIOUS DEPARTURE FROM ESTABLISHED MODE OF PROCEDURE IN FORUM STATE RENDERING ITS ORDERS NULL AND VOID FOR PURPOSE OF PROVIDING IT IN SISTER STATE A FULL FAITH AND CREDIT, AS PETITIONER'S THE FIFTH AND THE FOURTEENTH AMENDMENT RIGHT TO DUE PROCESS.

Enforcement of orders from a forum state are in most cases automatic elsewhere since rules are for most part established for providing full faith and credit to orders or final judgments for its enforcement in a sister state. *Estin v. Estin, 334 U.S. 541 (1948).*
In some cases however, prior to such providing full faith and credit would turn on answering specific question whether the enforcement does deserve full faith and credit in given circumstances around judgment issuance, when there would be a doubt about validity of the one, in

circumstances when enforcement of such judgment would be in violation of Constitutional provision(s) as this one in Petitioner's opinion would be deserving further a consideration in answering the question.

It has been well established by rulings from this Court, that the judgment of sister state issued in violation of the due process does not entitle to full faith and credit. *World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980). Kulko v. California Superior Court*, 436 U.S. 84 (1978). These cases rulings were based on insufficient defendants' contacts with forum states.

This Court ruled in *Old Wayne Mutual Life Assoc. of Indianapolis v. McDonough*, 204 U.S. 8 (1907):

> "The constitutional requirement that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state is necessarily to be interpreted in connection with other provisions of the Constitution, ... "

That case brings up a very necessary and important argument: "is necessarily to be interpreted in connection with other provisions of the Constitution," and "no state can obtain in the tribunals of other jurisdictions full faith and credit for its judicial proceedings if they are wanting in the due process of law enjoined by the fundamental law".

From the Court holding: *Mathews v. Eldridge*, 424 U.S. 319 (1976):

"[D]ue process is flexible and calls for such procedural protections as the particular situation demands.

In *Tumey v. State of Ohio*, 273 U.S. 510 (1927), this Court ruled that: "No matter what the evidence was against him (the defendant), he had the right to have an impartial judge."

If the judgment is issued by biased arbiter in issuing

state, issued against out-of-New Jersey litigant as in this case's circumstances, the Petitioner's case, according to Maine Supreme Judicial Court ruling even when forum state proceedings had been saturated with bias, so had been procured, that the judgment would according to Maine court would still be required to be enforced.

It would still be required enforcement of even when gender biased further deprivation of federal and Maine rights to be free from unjust arrest or detention by Maine or other state would or should take place.

It is well observed in numerous cases, that interstate custody matters have been traditionally and in most cases – almost always resolved in favor of local resident, favoring local interest at the expense of out-of state litigants. Because of such drawback of the union as federation of jurisdictions, Congress enacted statutes for removal of action from state to federal district courts for among other only as for diverse defendants rights for, per 28 U.S.C. §1441(b), and enacted also jurisdictional basis for action for damages based on diversity citizenship. 28 U.S.C. §1332.

In Petitioner's case, the Petitioner has been acting in New Jersey proceedings as pro se plaintiff, so removal of any enforcement by New Jersey action has been or would be disallowed for a plaintiff, even in real status of the matters lord of purporting turned the plaintiff into defendant of his rights including fundamental ones.

In pending the Petitioner's related federal case, dismissal of diversity action for damages, is being currently appealed in the Third Circuit U.S. Court of Appeals, appeal *Kwasnik v. Leblon*, no.: 05-5210.

Enforcement of such gender and out-of-New Jersey litigant slanted judgment against Petitioner would then be not only procured as fundamentally unjust, it would be further damaging the Petitioner based on what has been a biased in the first place.

One of indispensable element or criterion of due process is to be procured by a neutral arbiter.

From circumstances and history of the case when New Jersey courts despite all the procedural swaddling, have performed on several occasions not only denial of my right to equal treatment in custody matters, not only denial of right to be free from unjust detention, by the same performed cutting me off from my son, and from raising my son.

As government of local interests they performed alienation of me as a parent from my son, form governmental improper interference with parent-child relation. Now are seeking to coerce me into draining my limited resources for supplying result of their swindles. "Accept visitations or otherwise we are not allowing you to see your son without our permission, or on terms different from what we specify and control." Appendix at 08-10.

Their orders are further threatening me at present, and for the rest of my life with further depravation of right to be free from unjust arrest and detention by government, from possessing property without fear of loosing all to State of Maine for their sale of, for satisfying overstated child support from New Jersey barons or lords of impunity, because of my non-acceptance of biased result by them procured as her custody and my visitations.

They threaten me further for acceptance of something as permanent when already being ripped off by them, in irreversible damages, because it happened that they've gotten right to secure their only local interest at expense covering for all costs for out-of-state one.

The Fourth and the Fifth Amendments, Due Process Clause, are citizen's rights to be free from unjust arrest and detention by the government. That has been many many times announced by this Court.

The government may prevent the arrests as well. It is not necessary to first subject myself to actual arrest in order to generate strong controversy for sufficiency or presence of Article III adequate controversy. Judicial review of pre-enforcement action of government,

including review of respective statute under which there would be an arrest or conviction made is possible. *Virginia v. American Booksellers Assn.*, 484 U.S. 383 (1988). That case is also supporting certification of question of state law from federal courts proceedings to state supreme court.

II. THIS COURT SHOULD RESOLVE QUESTION WHETHER IT WOULD BE REQUIRED FOR SISTER STATE TO PROVIDE FULL FAITH AND CREDIT TO NON-FINAL IN FEDERAL CLAIMS JUDGMENT OR ORDER ISSUED BY FORUM STATE, AS QUESTION INVOLVING DEPRIVATION OF FEDERAL FUNDAMENTAL RIGHTS BY SISTER STATE PRIOR TO FORUM STATE ORDER'S FINALITY.

At present there are still proceedings in the U.S. Court of Appeals for the Third Circuit where one of the issues of the appealed dismissal of the complaint is assessing validity of New Jersey law NJS 9:2-4(c) with certified question to New Jersey Supreme Court. That New Jersey statutory provision is utilized when deciding of custody of minor child or children decision.

When New Jersey trial and appellate courts refused to rule on federal issues deciding that there had been no relevancy of constitutional raised claims to their proceedings, prior to filing of petition for certification as for discretionary review by NJ Supreme Court, there had been filed federal action in US District Court in New Jersey with federal claims. Pending of federal claims in federal forum had been explicitly indicated to NJ Supreme Court in the petition brief.

The appealed claims in the petition to NJ Supreme Court had been only in New Jersey law, and New Jersey Supreme Court ruling of denial of petition had been denial of review of only in New Jersey law.

In the US District Court case there have been raised federal claims of unconstitutionality of New Jersey statute under the Fourteenth Amendment Due Process & Equal Protection Clauses, which has not been adjudicated in New Jersey forum because of their denial to rule in federal claims.

The claims are not barred by *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, since when there is a jurisdiction in the case properly before the Third Circuit federal district courts, per *Exxon Mobil Corp. v. Saudi Basic Industries Corp.* 544 U.S. __ (2005), the case ought or should proceed in the court.

Because the federal claims are still pending in the Third Circuit courts in federal issues requesting to direct state law certified question to New Jersey Supreme Court, the Federal question has not been yet decided by New Jersey Supreme Court, and at present federal claims are therefore non-final.
Cox Broadcasting Corp. v. Cohn, 420 U.S. 469 (1975); *ASARCO Inc. v. Kadish*, 490 U.S. 605 (1989).

State proceedings as review of overwhelming statistics in numerous cases are decided per "separate but equal" rule. Additional materials like e.g. Report of the Maine Commission on Justice, Gender and the Courts, from December 4, 1996, do corroborate existence of customs and policies in functioning of divorce proceedings granting in more than 95% of cases custody of minor child or children. New Jersey was one of the 28 states which data on domestic relations as divorce and custody of children matters the Commission reviewed.

Furthermore, this Court in *Nevada Dept. of Human Resources v. Hibbs*, 538 U.S. 721 (2003), acknowledged functioning of gender stereotypes in employment by state agencies including.

In that case this Court ruled, that Family Medical Leave Act is a valid abrogation of State's the Eleventh

Amendment immunity, abrogation based on a valid Congress' power under §5 of the XIVth Amendment.

Surprisingly, contrary to behemoth biased policies, statutory law both in New Jersey and in Maine in its general terms provide for equal treatment of both parents during custody proceedings.

Why there is such a disparate treatment of both genders in divorces when there are children involved, when it the child what that is impacting as well? Fathers' treatment is usually with an automatic scissors to father's as a parent right, and his financial obligation under array of threats effectuated by the State, and the woman full or almost full rights in most cases?

Despite clearly expressed provisions for equal treatment, real equal is not the case, and reasons expressed for granting custody of children and the guy's visitations or no visitations at all when the guy is not accepting the custody loss.

Congress concluded: "classification based upon sex are inherently invidious." *Novotny v. Great American Fed. Sav & Loans Assoc.*, 584 F.2d 1235 (3rd Cir. 1978).

That disparity between equal rights of fathers and mothers as different gender, ubiquitous as different from what has been explicitly announced by this Court on many occasions – contrary to, is functioning in domestic relations cases unrestrained. *Craig v. Boren*, 429 U.S. 190 (1976). *Orr v. Orr*, 440 U.S. 268 (1979).

That dichotomy or difference from what is announced as equal rights and what many fathers are swamped into, has became custom and standard operating modes of state courts, when through state supreme courts' decisions directly controlling how state trial courts conduct their business in gender, it has became the biggest dichotomy in domestic relations, in family law state courts' almost exclusive domain.

It is the facet of biggest dichotomy in government operation also in what is being taught children at schools starting at about second grade as: "one nation with liberty and justice for all".

Is it (the justice) equal in a real status of the matters? "Separate, but equal" is a functioning rule. When Robert is being taught, or programmed, about liberty and justice for all, he is cut off by them from the truth.

As young boy, he does not know how he has been ripped off and is not being told by the same State through which his apostles, well paid for making other believe that their order or words are the law, the way they have effected that. What a hypocrisy of the government, the system.

III. MAINE SUPREME JUDICIAL COURT ORDER SHOULD BE REVIEWED SINCE IT OVER-GENERALIZED PRINCIPLE OF GIVING FULL FAITH AND CREDIT TO FINAL JUDGMENT AS PROVIDING FOR ENFORCEMENT FOR DESERVING SUCH TREATMENT OF OTHER JURISDICTIONS' FINAL JUDGMENTS, AS IN CONTRAST TO NON-FINAL JUDGMENTS RELATED TO FEDERAL FUNDAMENTAL RIGHTS OF THE PETITIONER AS RIGHT TO BE FREE FROM UNJUST ARREST AND SUBSEQUENT DETENTION BY THE STATE GOVERNMENT.

The Supreme Judicial Court determined that New Jersey divorce and custody decision "establishing" Petitioner's child support obligation at rate of $228.00 per week is entitled to full faith and credit. In its decision affirming Superior Court order upholding DHHS decision for revocation of the Petitioner's driver's license, Supreme Judicial Court relied of case *Milliken v. Meyer*, 311 U.S. 457 (1941). The controversy in that case had been over a 1/64th interest in profits from operation of certain Colorado oil properties, to which both parties claimed rights. When Wyoming court ruled for Milliken in lawsuit, and when after the judgment became final Meyer later filed action in Colorado court. Colorado Supreme Court ruled that Wyoming judgment was not validly issued only because it found it with: "irreconcilable contradiction between the findings and the decree".

The U.S. Supreme Court in *Milliken* has ruled that: "if the Wyoming court had jurisdiction over Meyer, the holding by the Colorado Supreme Court that the Wyoming judgment was void because of an inconsistency between the findings and the decree was not warranted."

The Court concluded that Wyoming judgment about 1/64th interest in profits deserved full faith and credit in Colorado's courts.

The Petitioner's case in Maine courts has nor been not however about simple interest in money or profit, but about whether the State would be free to create a coercive means for accepting waiver by Petitioner of his substantial rights, when what then inevitably cause arrest, conviction, and generate criminal record of conviction of the Petitioner.

The Petitioner case has been related to rights enumerated in Bill of Rights, and not about simple property interest.

In *Franchise Tax Board of California v. Hyatt*, 538 U.S. 488 (2003), a case about assessment of tax by California against its former resident as dispute about intentional tort of California to Nevada resident, full faith and credit and immunity of California from suit in Nevada court, this Court held, that:

> "The full faith and credit command "is exacting" with respect to a final judgment rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, *Baker* v. *General Motors Corp.*, 522 U. S. 222, 233, but is less demanding with respect to choice of laws."

Although legal dispute in *Hyatt* later boiled down to whether California statutes giving itself immunity from suit should be given full faith and credit in Nevada courts, this Court decided that intentional tort claims could proceed in Nevada courts against California, and full faith and credit command ""is exacting" with respect to a final judgment, but is less demanding

in regard to choice of laws of two states."

Despite clear provisions that an individual possesses unalienable rights to be free from unjustly procured arrest, to raise his child, from unjustly procured detention as an attempt in coercion by the government to cause him to waive his rights further, when government exercises improper or unjust policies, or even in case when the government is effecting the depravation as a single occurrence of.

Maine Supreme Judicial Court further ruled, DHHS revocation of driver's license was proper, and that independent in review of agency final decision action 42 U.S.C. §1983 & §1985(3) claims against individual state officers were properly dismissed. Appendix at 01-02.

Maine Supreme Judicial Court by affirming DHHS order has gave them green light in exercising of 19-A M.R.S.A. §2202 proposition against me: accept the overstated so imputed obligation for child support by New Jersey lord of impunity by signing an agreement for payment, and that would be a waiver of your right to its due assessment or recalculation, continue to make overstated payments according to such signed waiver, or face revocation of driver's license, arrest and/or incarceration with criminal conviction for driving without the one.

After you sign the one, our threats for your arrest would be about enforcement of your waiver, and not anymore about propriety of form state order.

It is well established, that in order to present actual controversy, there is no need to first self-subject to actual incarceration or conviction. Pre-enforcement review of a statute is possible, especially a criminal one. *Virginia v. American Booksellers Assn.*, 484 U.S. 383 (1988). *Abbott Laboratories v. Gardner*, 387 U.S. 136 (1967).

Parent's right to own child custody is a fundamental right. *Santosky v. Kramer*, 455 U.S. 745 (1982):

> "When the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures."

Driver's license, although it is deemed as a state granted privilege, it is a necessity for every day conducting personal and business matters by almost any individual.

Maine is not better than New Jersey, contrary to Maine Constitution, Article I Section 6-A, in utilizing gender behemoth discriminatory policies. Maine Supreme Judicial Court rulings – not those posted on its Internet web site, but some of those published as reported opinions, do indicate that Maine courts' rulings are appearing as highlights of all gender discriminatory practices of state courts.

If the matters of child custody were determined in Maine, the result would have been similar to that from New Jersey, and enforcement of it as well, because of its behemoth policy of woman's custody of children and man's obligation with continuous threat of forceful enforcement of that biased result, threat of incarceration, property depravation, and other.

Even when a woman does not want garnished money from whatever reason, DHHS is still garnishing it and delivering it to her as a separate party having right to the man's property garnishment.

As expected in this case, Maine is strongly interested to coerce me into waiver of any further review of grounds and assessment of overstated child support being payable to Ewa Skwarczynska, coercing for entering into a payment agreement with DHHS, so in case of involuntary default matters would be around enforcing an agreement a waiver of my rights, and not about propriety of issuance of original order.

Properly assessed child support belongs to Robert, not to Ewa Skwarczynska. Custody of Robert is still being contested on constitutional grounds, so the validity of child support obligation as payable to her, instead of Robert, is being contested that way as well.

Title 29-A Maine Revised Statutes Annotated, §1251, in pertinent part the statute does provide:

> "a person commits an offense of operating a motor vehicle without a license if that person operates a motor vehicle on a public way" ... and that "Violation of this paragraph is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

Driving with revoked license includes driving with revoked license as license which can not be restored, and only reapplied for a new one. It has been defined as "strict liability crime" which does not required proof of culpable mind of the offender.

Driving without a driver's license, even as a necessity for me, especially because of living in area far from public transportation, and due to the State coercive revocation to cause waiver of my other rights can have a substantial consequences and impact on me because of a criminal record of arrest and an automatic conviction that would generate.

Maine courts erred in federal law action against individual state officers who enforce allegedly unconstitutional state statute. State officers can be sued to enjoin prospective violation of federal law.
Ex parte Young, 209 U.S. 123 (1908); *Verizon Maryland Inc., v. Public Serv. Comm'n of Maryland*, 535 U.S. 635 (2001).

From *Idaho et al. v. Coeur d'Alene Tribe of Idaho et al.* 521 U.S. 261 (1997):

> "In a suit commenced against such officials, even if they are named and served as individuals, the State

itself will have a continuing interest in the litigation whenever state policies or procedures are at stake. See, *e. g., Pennhurst State School and Hospital v. Halderman,* 465 U. S. 89, 114, n. 25."

If the Supreme Judicial Court of Maine ruling in regard to full faith and credit is found by this Court as incorrect, then also the claims against individual state officer(s) would not be barred for continuing for enjoinment of allegedly unconstitutional Maine statute.

IV. THIS COURT SHOULD RESOLVE QUESTION OF EXCEPTION TO FULL FAITH AND CREDIT RULE IN DETERMINING WHETHER CONGRESS DID OR DID NOT INTEND THAT FULL FAITH AND CREDIT BE PROVIDED TO STATE COURT JUDGMENTS OR ORDERS EITHER FINAL OR NON-FINAL ONES WHEN ENACTING TITLE 28 OF U.S.C. §1738 AND §2254, WHEN SUCH GIVING IN SISTER STATE TO FORUM STATE ORDERS FULL FAITH AND CREDIT WOULD DEPRIVE SUBJECT INDIVIDUAL OF FEDERAL FUNDAMENTAL RIGHT OF BEING FREE FROM UNJUST ARREST AND/OR DETENTION WHEN BECOMING HELD IN CUSTODY AS RESULT OF STATES' COURT JUDGMENTS VIOLATIVE OF EITHER OF THE CONSTITUTION OR LAWS OF THE UNITED STATES OR BOTH, AS EVIDENCED BY PROVISIONS OF TITLE 28 U.S.C. §2254.

This Court ruled in *Old Wayne Mutual Life Assoc. of Indianapolis v. McDonough*, 204 U.S. 8 (1907):

"The constitutional requirement that full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state is necessarily to be interpreted in connection with other provisions of the Constitution ... .

There has been also well established principle, that in regard to criminal consequences, application of criminal statutes to individual's acting, there should be no need for that individual to first subject himself or herself to conviction and sentence in order to generate sufficient controversy for having a standing. *Virginia v. American Booksellers Association.*

In case *Wiggins v. Smith*, 539 U.S. 510 (2003), this court held:

> "(a) A federal writ can be granted only if a state court decision "was contrary to, or involved an unreasonable application of, clearly established" precedents of this Court. 28 U. S. C. § 2254(d)(1). This "unreasonable application" prong permits the writ to be granted when a state court identifies the correct governing legal principle but unreasonably applies it to the facts of a petitioner's case. *Williams* v. *Taylor,* 529 U. S. 362, 413. For this standard to be satisfied, the state court decision must have been "objectively unreasonable," *id.,* at 409, not just incorrect or erroneous."

The "unreasonable application" test has been defined as: "when a state court identifies the correct legal principle but unreasonably applies it to the facts of a petitioner's case."

And that is the exact situation of unreasonable application to my case.

In Maine proceedings, in brief in Maine Supreme Judicial Court brief the Petitioner has been argued, that in New Jersey proceedings there has taken place: "departure from established modes of procedure", and that such departure: "created an outcome – their orders, orders contravening both New Jersey law, and federal substantive due process rights, rights constitutionally guaranteed."

At present, NJ orders as basis for DHHS action for revocation of legal driving privileges, arresting for

exercising a necessity as driving of motor vehicle, conviction of committing "strict liability crime" as per Title 29-A M.R.S.A., §1251, and Title 17-A M.R.S.A., section 34, subsection 4-A", is exposing me to substantial effects of driving without driver's license.

Although filing for a writ in federal court based on 28 U. S. C. § 2254 ground has a limited time window – one year, when application for the writ can generally be made once and it can be granted only when all state remedies became exhausted, it is a well established right for federal review of propriety of state conviction.

While despite of required due great deference to state court factual findings with possibly wrongful final conviction result, application for and warranting of habeas corpus relief as "equitable remedy" is nevertheless permitted, based on premise that objectivity is an answer to fundamental fairness in conviction concern.

It is an undisputed right of an applicant-petitioner to have for a second time - assessment of propriety or validity of final determination affecting individual's Bill of Rights fundamental right.

From *House v. Bell*, 547 U.S. __ (2006):
"comity and finality 'must yield to the imperative of correcting a fundamentally unjust incarceration,' *Murray v. Carrier*, 477 U. S. 478, 495."

It is the Petitioner's argument, that by enacting Title 28 of U.S.C. §2254, Congress has expressly excepted from deference to, or preempted providing full faith and credit to state court final determination in case's specific circumstances, for subjecting state judgment of conviction and/or sentence of the individual to re-examination by federal courts.

This controversy may turn into such kind in near future. That exception does encompass "unreasonable application of clearly established federal law as determined by the Supreme Court of the United States," as per *Wiggins*.

Although this petition is not for a writ of habeas corpus, at present it is appearing it is very probable that it will be needed to file for in near future.

SUMMARY OF FACTS AND ARGUMENTS

All the proceedings in New Jersey have been a string of perversions of equal rights, as result of is reflecting that with clarity, Appendix at 08-10, and appealed here Maine proceedings are an attempt only to seal that permanently.

Acquiring permanent resident and citizen of the U.S. status ought to be or should be a two way or reciprocal contract, under due process promise fulfilled, and not as one way or single ended so far while coercing me into acceptance of state government gender favoring policies, under threat of criminal conviction and throwing into social dumpster as jails and prisons are, made a convicted felon because of acting for of state, because the Petitioner did not accept being swindled out of his rights by one of the United States of America – State of New Jersey, and assisting in that – State of Maine, as their fixed gender favoritism.

CONCLUSION

The Court should grant the petition for a writ of certiorari and reverse the decision of Supreme Judicial Court of Maine.

Respectfully submitted,

Marek A. Kwasnik
Petitioner pro se
PO Box 2065
Windham, ME 04062
207-650-4119

MAINE SUPREME JUDICIAL COURT
Decision: 2006 ME 27
Docket: Cum-05-486
Submitted
On Briefs: March 22, 2006
Decided: March 29, 2006
Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, CALKINS, LEVY, and SILVER, JJ.

Reporter of Decisions

MAREK A. KWASNIK

v.

DEPARTMENT OF HEALTH AND HUMAN SERVICES et al.

PER CURIAM

[¶ 1] Marek A. Kwasnik appeals from a decision of the Superior Court (Cumberland County, *Crowley, J.*), affirming an administrative decision of the Department of Health and Human Services to revoke his Maine driver's license for nonpayment of child support. Contrary to his contentions, (1) the New Jersey divorce decision establishing his child support obligations is entitled to full faith and credit, *see Milliken v. Meyer*, 311 U.S. 457, 462 (1940); (2) the Department's revocation of his driver's license pursuant to 19-A M.R.S. § 2202(2)(E) (2005) and Chapter 22 of the Maine Child Support Enforcement Manual, 17 C.M.R. 10 144 351-59 to -60 (2002), was proper; and (3) the Superior Court did not abuse its discretion or commit error of law in dismissing independent claims pursuant to 42 U.S.C.A. §§ 1983, 1985 (West 2003) against representatives of the Department in their individual

capacities, *see Iacobucci v. Boulter*, 193 F.3d 14, 19 (1st Cir. 1999).

The entry is:

Judgment affirmed.

For plaintiff:

Marek A. Kwasnik
99 Swett Road
Windham, ME 04062

Attorneys for defendant:

G. Steven Rowe, Attorney General
Carlos Diaz, Asst. Atty. Gen.
44 Oak Street, 4th floor
Portland, ME 04101

File stamp.
STATE OF MAINE, CUMBERLAND, ss
CLERK'S OFFICE, 2005 AUG 29 A 9:50

STATE OF MAINE

CUMBERLAND, ss

SUPERIOR COURT
CIVIL ACTION
Docket No. AP-03-059

MARK A. KWASNIK

Plaintiff,

ORDER ON RULE 80C APPEAL

v.

COMMISSIONER, MAINE
DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*

Defendant.

The administrative decision upholding the revocation of the Petitioner's driver's license for non-payment of child support is AFFIRMED.

DATED: August 26, 2005

s/ Robert E. Crowley
Hon. Robert E. Crowley
Justice, Superior Court

Maine Department of Human Services (DHS)
Division of Support Enforcement and Recovery

Obligor: MAREK A. KWASNIK Case ID: 20096109P
Parent 99 SWETT RD Member ID: 20235778
WINDHAM, ME 040624615

NOTICE THAT DHS SEEKS TO REVOKE YOUR LICENSE(S)

(19-A M.R.S.A. Sections 2201 and 2202)

Notice: DHS must receive your response to this Notice within 20 days of the date of service of this Notice. If not, your driver's, occupational and recreational license(s) may be revoked.

Explanation: DHS records verify that you have not followed terms of a child support order against you. A copy of the order is attached to this

You have not:

- ☑ Made a full current child support payment in the past 60 days;
- ☑ Paid on a past due support debt according to a support order or a written agreement with DHS, or;
- ☐ Provided health insurance for your child(ren) as ordered in past 60

What you must do: If you do nothing, your license(s) may be revoked or cancelled. If you do any of the following, your license(s) may not be revoked.

A. Ask for an Administrative Hearing.

If you believe that you have followed your child support order or that this Notice is wrong, ask in writing for a DHS hearing. DHS must receive your written request for a hearing within 20 days of the date of service of this Notice. Send your written request to the following Child Support Enforcement Office:

MAINE DEPARTMENT OF HUMAN SERVICES
DIVISION OF SUPPORT ENFORCEMENT
RECOVERY
161 MARGINAL WAY, PORTLAND, MAINE, 04101

Peter J. Manning TELEPHONE: (207)-822-2000

B. Pay what you owe. Send payments by check or money order to:

IV-D Cashier
Department of Human Services
Box 1098
Augusta, ME 04332

Do not send cash. Write your Member ID number on you payment. This number is on the top of Page 1 of this Notice.

C. Provide health insurance as required.

Send proof of the health insurance to the Child Support Enforcement Office at address shown above in Paragraph A.

D. Make a written agreement with DHS to make periodic payments on your de

If you are not able to pay all you owe, you can make an agreement with DHS. To make an agreement, write or call the Child Support Enforcement Office at the address shown above in Paragraph A. In order to make a written agreement you must pay your current child support when due. Not complying with the written agreement is grounds for license revocation.

E. Change your child support order.

If you are changing your child support order or want to change your Child Support Order, DHS must stay the process to take away your license.

1) If you have a current child support order from DHS.

If your child support order came from DHS, write to the Child Support Enforcement Address shown above in Paragraph A. Ask for a review of your order.

2) If you have a child support order from a court.

If your Child Support Order came from a court, get forms to begin a court action from the Clerk of the Court. You must give DHS a copy of the motion you file with the court.

Notify DHS within twenty (20) days if you do any of the above.

If you do not take any steps listed here, you will receive a copy of the Notice of Certification to Revoke License(s). This Notice will be sent to the Secretary of State, Agency or board which issues you license(s). You will receive

notice of when you license will no longer be in force. You will not be able to get your license back until you get from DHS a Statement of Compliance.

If you have any questions or want to discuss your situation with someone from DHS, contact DHS at the address above in Paragraph A.

Dated: 4/7/03 s/ Peter Manning
Authorized Representative
of DHS

AVIVITH OPPENHEIM, ESQ.
140 Mountain Avenue
Suite 301
Springfield, NJ 07081
(973) 379-0747
Attorney for Defendant

MAREK KWASNIK	:	SUPERIOR COURT OF NEW JERSEY
Plaintiff	:	CHANCERY DIVISION-FAMILY PART
vs.	:	MIDDLESEX COUNTY
EWA SKWARCZYNSKA	:	Docket no.: FM-12-1190-01
Defendant	:	Civil Action

JUDGMENT OF DIVORCE AND ORDER

A Trial having been held before the Court on March 18, 19 and 20, 2002 on all the issues and defendants appearing with her attorney, Avivith Oppenheim, Esq., and plaintiff appearing Pro Se and argument in open court and the Court having duly considered the Testimony, Proofs and Arguments; it is;

ORDERED that Judgment of Divorce be and is hereby Granted pursuant to NJSA 2A:34-2(d), and it is further;

ORDERED that as each of the parties has waived alimony as against each other that alimony be and is hereby waived, and it is further;

ORDERED that sole custody of minor child, Robert Kwas, be and is hereby Granted to Defendant, and it is further;

ORDERED that Plaintiff be and is hereby Denied visitation with the minor child, Robert Kwas, until further order of the Court and upon Plaintiff's petition to the Court for such visitation, and it is further;

ORDERED that child support be and is hereby set at the rate of $228.00 per week, pursuant to the Child Support Guidelines, to be paid by the Plaintiff to the Probation Department in the County in which he resides or by wage garnishment, and it id further;

ORDERED that if Plaintiff fails to pay child support for any two consecutive weeks a bench warrant will issue, and it is further;

ORDERED that Plaintiff shall pay to the Defendant, $3,073.50 as and for payment of the legal fees defendant incurred for her representation in Maine, by Lawrence Sawyer, Esq., in the pursuit of the custody of the minor child, Robert Kwas, and it is further;

ORDERED that Plaintiff shall pay $5,611.17 to Defendant's attorney Avivith Oppenheim. Esq., as and for the legal fees incurred in the pursuit of this matter, and it is further;

ORDERED that child support payments and attorneys fees as set forth above be not discharged in any bankruptcy proceedings either pending or in the future, and it is further;

ORDERED that the parties share in the future post high school educational costs of the minor child, Robert Kwas, in an amount proportional to their income at that

time, or based on their ability to earn income at that time, after taking into consideration all applicable scholarships and financial aid available to the child at that time, and it is further;

ORDERED that Plaintiff shall supply to Defendant's attorney, Avivith Oppenheim, Esq., and to the Probation Department, on weekly basis, a written list of contacts, with at least fifteen employers weekly, in his search for employment; and it is further;

ORDERED that Plaintiff shall pay any and all arrears for child support within 30 days of the date hereof or bench warrant shall issue, and it is further;

ORDERED that Plaintiff's petition for Custody, be and is hereby Denied, and it is further;

ORDERED that Plaintiff's claim for alleged Constitutional violations be and is hereby Denied, and it is further

ORDERED that Plaintiff's claim for reimbursement of deposition costs for the February 26, 2002 deposition be and is hereby Denied, and it is further;

ORDERED that a copy of this Order be served on the Plaintiff within days of the date hereof.

s/ Vincent Leblon
Hon. Vincent Leblon, J.S.C.

Maine Department of Health Human Services (DHHS)
Division of Support Enforcement and Recovery

CERTIFICATION TO REVOKE YOUR LICENSE(S)

To: ROBERT O'CONNELL
DRIVER LICENSE SERVICES
SECRETARY OF STATE OF MAINE
MATTHEW DUNLAP, 29 SHS
AUGUSTA, ME 04333

From: PATRICIA O'DONNELL
ENFORCEMENT AGENT
DIVISION OF SUPPORT ENF & RECOVERY
161 MARGINAL WAY
PORTLAND, ME 04101
(207) 822-2000

Re: MAREK A. KWASNIK Case ID: 20096109P
99 SWETT RD SSN: 126-70-9337
WINDHAM, ME 040624615 DOB: 12/4/1956

The person named above has been verified by DHHS as an obligor who has not met the terms of a legal Child Support Order. You Must:

X Revoke or Suspend the following License(s) issued to the person named above:

5312258 DRIVERS

If you have any questions, contact the person from DHHS listed above.

Dated: 6/5/2006 **Signed:** s/ Brenda M. Harvey
Title: Commissioner
Dept. of Human Services

This notice is issued by authority of 19-A M.R.S.A. Section 2201(6), (13) and/or 2202(7) and is a final determination under 5 M.R.S.A. Section 10002.

Title 28 U.S.C. §1738. State and Teritorial statutes and judicial proceedings; full faith and credit.
In pertinent part the statute does provide:

...

The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other sourts within the United States ..... .

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States ..... .

Title 28 U.S.C. §2254. State custody; remedies in State courts.
In pertinent part the statute does provide:

(a) The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States.

...

(d) An application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court shall not be granted with respect to any claim that was adjudicated on the merits in state court proceedings unless the adjudication of the claim-

(1) resulted in a decision that was contrary to, or involved an unreasonable application of,

clearly established Federal law, as determined by the Supreme Court of the United States; ....

State of Maine Constitution, Article I, Section 6-A, Discrimination against persons prohibited.

No person shall be deprived of life, liberty or property without due process of law, nor be denied the equal protection of the laws, nor be denied the enjoyment of that person's civil rights or be discriminated against in the exercise thereof.

Title 19-A Maine Revised Statutes Annotated §2202. In pertinent part the statute does provide:

...

2. Notice. The commissioner may serve notice upon a support obligor who is not in compliance with an order of support that informs the obligor of the commissioner's intention to certify the obligor to the Secretary of State as an individual who is not in compliance with an order of support. The notice must inform the obligor that:

...

E. If the commissioner certifies the obligor to the Secretary of State, the Secretary of State must suspend any motor vehicle operator's licenses that the obligor holds and the obligor's right to apply for or obtain a motor vehicle operator's license;

...

7. Certification. The commissioner may certify in writing to the Secretary of State that a support obligor is not in compliance with an order of support if:

...

C. The court enters a judgment on a petition for judicial review that finds the obligor is not in compliance with a support order;

Title 29-A Maine Revised Statutes Annotated, §1251.

In pertinent part the statute does provide:
"§1251. License required.

1. Violation. ...., a person commits an offense of operating a motor vehicle without a license if that person operates a motor vehicle on a public way or parking area:

A. Without being licensed. Violation of this paragraph is a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A."

Title 17-A Maine Revised Statutes Annotated, Maine Criminal Code §34.

In pertinent part the statute does provide:
§34. Culpable state of mind as an element

...

4. Unless otherwise expressly provided, a culpable mental state need not be proved with respect to:

...

E. Any criminal statute as to which it is expressly stated to be a "strict liability crime" or otherwise expressly reflects a legislative intent to impose criminal liability without proof by the State of a culpable mental state with respect to any of the elements of the crime;

New Jersey Statute **NJS 9:2-4**, with its **9:2-4(c)**:

...

" In any proceeding involving the custody of a minor child, the rights of both parents shall be equal and the court shall enter an order which may include:

...

9:2-4(c) Any other custody arrangement as the court may determine to be in the best interests of the child. In making an award of custody, the court shall consider but not be limited to the following factors: the parents' ability to agree, communicate and cooperate in matters relating to the child; the parents' willingness to accept custody and any history of unwillingness to allow parenting time not based on substantiated abuse; the interaction and relationship of the child with its parents and siblings; the history of domestic violence, if any; the safety of the child and the safety of either parent from physical abuse by the other parent; the preference of the child when of sufficient age and capacity to reason so as to form an intelligent decision; the needs of the child; the stability of the home environment offered; the quality and continuity of the child's education; the fitness of the parents; the geographical proximity of the parents' homes; the extent and quality of the time spent with the child prior to or subsequent to the separation; the parents' employment responsibilities; and the age and number of the children.

A parent shall not be deemed unfit unless the parents' conduct has a substantial adverse effect on the child.

The court, for good cause and upon its own motion, may appoint a guardian *ad litem* or an attorney or both to represent the minor child's

interests. The court shall have the authority to award a counsel fee to the guardian *ad litem* and the attorney and to assess that cost between the parties to the litigation." ...